

# EXHIBIT 2



STEVEN K. PARKE, ESQ.

Nevada Bar No. 12627

**THE LAW FIRM OF PARKE ESQUIRE**

4455 S Jones Blvd., Suite 1

Las Vegas, NV 89103

Phone: (702) 469-3000

Fascimile: (702) 675-8990

Counsel for Plaintiff

MICHAEL T. HUA, ESQ.

Nevada Bar No. 14547

**MICHAEL T. HUA LAW LLC**

6145 Spring Mountain Rd #201

Las Vegas, NV 89146

Telephone: (702) 659-5977

Facsimile: (702) 832-0266

efile@michaelhua.com

Associated Co-Counsel for Plaintiff

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

SAMMANTHA NIEMEIER as Special Administrator  
of the Estate of JEFFREY CARTER;

Plaintiff,

vs.

THE VONS COMPANIES, INC., a corporation; and  
DOES and DOE EMPLOYEES I through X,  
inclusive; and ROE ENTITIES I through X, inclusive,

Defendants.

CASE NO: A-22-848220-C

DEPT. NO: 4

**REQUEST FOR EXEMPTION  
FROM ARBITRATION**

Plaintiff requests that this matter is exempted from arbitration pursuant to Nevada Arbitration Rules 3 and 5, as this case involves a probable jury award in an amount in excess of \$50,000. A specific summary of the facts which supports this contention for exemption is as follows:

In 2016, Jeffrey Carter, was diagnosed with throat cancer. With immunotherapy treatments, my client was recovering from his illness. Immediately before the accident referenced above, my client was living a normal and otherwise healthy lifestyle.

On February 16, 2020, Mr. Carter, along with his sister-in-law, Robin McNaughton, went shopping at Vons, located at 7405 South Durango Drive in Las Vegas. Mr. Carter and Ms. McNaughton were walking in or about aisle 4/5, towards the bakery department to pick up a birthday cake for his wife, Victoria (Tori) Carter.

At about the same time, a Vons employee also in aisle 4/5, had one hand pushing a “long flatbed” trolley while using his other hand to pull a shopping cart behind him. The Vons employee lost control of the long flatbed trolley. The trolley rolled onto Mr. Carter’s left foot, pinning his left foot to the ground, and then pushing Mr. Carter forwards onto the ground.

The collision caused Mr. Carter to land on his right side and to slam his head against the floor. He suffered injuries to his right shoulder, head and a laceration above his right eye (requiring sutures). Vons did not offer or provide any type of first aid, aside from a clerk bringing paper towels and a customer bringing some ice. Mr. Carter then had to fill out an incident report before he could leave the store. At no time did Vons offer to call an ambulance or offer to have Mr. Carter come back later to fill out the incident report. Mr. Carter was then immediately driven to the ER at Spring Valley Hospital.

An MRI of Mr. Carter’s right shoulder revealed a SLAP tear glenoid labrum, and a tear of the distal supraspinatus tendon. As a result of the injuries sustained in this accident, Mr. Carter’s cancer recovery slowed. Eventually, with the pain and injuries to his right shoulder, limited mobility, mental stress and low morale, Mr. Carter’s health deteriorated quickly. Due to Mr. Carter’s cancer, he was unable to receive numerous modalities resulting in an exacerbated amount of pain and suffering. On or about April 24, 2020, Mr. Carter was placed into hospice care.

Additionally, Mr. Carter fractured his 5th, 6th, and 7th ribs.

On May 11, 2020, Mr. Carter passed away, less than four months after the Vons accident.

#### **ECONOMIC DAMAGES**

Spring Valley Hospital	\$ 2,404.00
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Shadow Emergency Physicians	\$ 4,214.00
Desert Radiology	\$ 9,681.00
Ming Wei Wu, D.O.	\$ 421.00
Pueblo Medical Imaging	\$ 1,800.00
Las Vegas Spine and Pain Center	\$ 1,262.00
Advanced Orthopedics and Sports	\$ 884.63
Dynamic Spine and Sport	\$ 692.00
<b>Total Bills to Date:</b>	<b>\$21,358.63</b>

The US and Nevada constitution govern that civil litigants the fundamental right to a fair and impartial jury trial. All civil cases that have a probable jury award value not in excess of \$50,000 per plaintiff may be exempt from the arbitration program. NAR 5.

A jury may award damages for past and future medical expenses—

The reasonable medical expenses plaintiff has necessarily incurred as a result of the accident [and the medical expenses which you believe the plaintiff is reasonably certain to incur in the future as a result of the accident].

NEV. J.I. 10.02. A jury may award damages for past and future pain and suffering—

The physical and mental pain, suffering, anguish and disability endured by the plaintiff from the date of the accident to the present [and the physical and mental pain, suffering, anguish and disability which you believe plaintiff is reasonably certain to experience in the future as a result of the accident].

NEV. J.I. 10.04. No definite standard for calculating pain and suffering exists—

No definite standard [or method of calculation] is prescribed by law by which to fix reasonable compensation for pain and suffering. Nor is the opinion of any witness required as to the amount of such reasonable compensation. [Furthermore, the argument of counsel as to the amount of damages is not evidence of reasonable compensation.] In making an award for pain and suffering, you shall exercise your authority with calm and reasonable judgment and the damages you fix shall be just and reasonable in the light of the evidence.

NEV. J.I. 10.05; BAJI 14.13.

Here, Plaintiff's combined economic and noneconomic damages will exceed \$50,000.

Therefore, Plaintiff respectfully requests this matter is exempted from the arbitration program.

1 I hereby certify pursuant to NRCP 11 this case to be within the exemption(s) marked above and  
2 am aware of the sanctions which may be imposed against any attorney or party who without good cause  
3 or justification attempts to remove a case from the arbitration program.

4 I further certify pursuant to NRS Chapter 239B and NRS 603A.040 that this document and any  
5 attachments do not contain personal information including, without limitation, home address/phone  
6 number, social security number, driver's license number or identification card number, account number,  
7 PIN numbers, credit card number or debit card number, in combination with any required security code,  
8 access code or password that would permit access to the person's financial account.  
9

10 DATED April 6, 2022

11 /s/ Michael T. Hua  
12

13 MICHAEL T. HUA, ESQ.  
14 Nevada Bar No.: 14547  
15 MICHAEL T. HUA LAW  
16 5440 W. Sahara Ave. #106  
17 Las Vegas, NV 89146  
18 Associated Co-Counsel for Plaintiff  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on April 6, 2022, I served a copy of the foregoing  
**REQUEST FOR EXEMPTION FROM ARBITRATION** by transmitting via U.S. Mail, first-class  
postage pre-paid to the office listed below.

LEW BRANDON, JR., ESQ.  
Nevada Bar No. 5880  
JUSTIN SMERBER, ESQ.  
Nevada Bar No. 10761  
SARA PASQUALE, ESQ.  
Nevada Bar No. 14412  
GREGORY ODEA, ESQ.  
Nevada Bar No. 9884  
BRANDON | SMERBER LAW FIRM  
139 East Warm Springs Road  
Las Vegas, Nevada 89119  
(702) 380-0007  
(702) 380-2964 – facsimile  
Attorneys for Defendant

/s/ Sammantha Niemeier

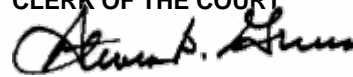
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An Employee of MICHAEL T. HUA LAW LLC

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**DECLARATION OF SERVICE**

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3/3/2022 11:44 AM  
Steven D. Grierson  
CLERK OF THE COURT



**SAMMANTHA NIEMEIER, et al.,**

Case No :A-22-848220-C

Plaintiff/Petitioner,

vs.

**THE VONS COMPANIES, INC., et al.,**

Defendant/Respondent,

STATE OF NEVADA,  
COUNTY OF WASHOE ss.:

**SUMMONS; COMPLAINT** Received by NOW! Services, Inc. on 02/28/2022 with instructions to serve **THE VONS COMPANIES, INC c/o CT Corporation System at 701 S. Carson St. Ste.200, Carson City, NV89701.**

I, **Wade Morlan - R-006823**, being duly sworn says: That at all times herein affiant was and is a citizen of the United States, over 18 years of age, not a party to or interested in the proceeding in which this affidavit is made.

I am authorized to serve this process in the circuit/county it was served in.

On **03/02/2022 at 9:00 AM**, deponent served the within **SUMMONS; COMPLAINT** on **THE VONS COMPANIES, INC c/o CT Corporation System at 701 S. Carson St. Ste.200, Carson City, NV89701** in the manner indicated below:

By personally delivering and leaving a true copy of this process with **Carlie Fecteau**, pursuant to NRS 14.020 as a person of suitable age and discretion at the above address, which is the address of the Resident Agent as shown on the current certificate of designation filed with the Secretary of State.

A description of the **Defendant(s)**, or other person served on behalf of the **Defendant(s)** is as follows:

Sex	Color of skin/race	Color of hair	Age(Approx)	Height(Approx)	Weight(Approx)
<b>Female</b>	<b>Caucasian</b>	<b>Brown</b>	<b>20</b>	<b>5'06</b>	<b>125</b>
Other Features:					

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

Executed this 2nd day of March, 20 22

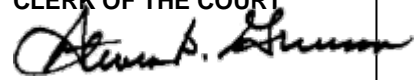
No Notary is required per NRS 53.045.



\*44358\*

X   
Wade Morlan - R-006823  
License#: 1361  
NOW! Services, Inc.  
3210 W. Charleston Blvd., Ste. 3  
Las Vegas, NV89102  
(702) 669-7378

Client File No:

1 **IAFD**2 **LEW BRANDON, JR., ESQ.**

3 Nevada Bar No. 5880

4 **JUSTIN SMERBER, ESQ.**

5 Nevada Bar No. 10761

6 **SARA PASQUALE, ESQ.**

7 Nevada Bar No. 14412

8 **GREGORY ODEA, ESQ.**

9 Nevada Bar No. 9884

10 **BRANDON | SMERBER LAW FIRM**

11 139 East Warm Springs Road

12 Las Vegas, Nevada 89119

13 (702) 380-0007

14 (702) 380-2964 – *facsimile*15 [l.brandon@bsnv.law](mailto:l.brandon@bsnv.law)16 [j.smerber@bsnv.law](mailto:j.smerber@bsnv.law)17 [s.pasquale@bsnv.law](mailto:s.pasquale@bsnv.law)18 [g.odea@bsnv.law](mailto:g.odea@bsnv.law)19 *Attorneys for Defendant,*20 *THE VONS COMPANIES, INC.*21 **DISTRICT COURT**22 **CLARK COUNTY, NEVADA**23 SAMMANTHA NIEMEIER as Special  
24 Administrator of the Estate of JEFFREY  
25 CARTER,

26 Plaintiff,

27 vs.

28 THE VONS COMPANIES, INC., a corporation;  
and DOES and DOE EMPLOYEES I through X,  
inclusive; and ROE ENTITIES I through X,  
inclusive,

Defendants.

CASE NO.: A-22-848220-C  
DEPT. NO.: 4**INITIAL APPEARANCE FEE DISCLOSURE**  
**(NRS CHAPTER 19)**Pursuant to NRS Chapter 19, as amended by Senate Bill 106, filing fees are submitted  
for parties appearing in the above-entitled action as indicated below:



**BRANDON | SMERBER**  
**LAW FIRM**  
 139 E. WARM SPRINGS RD.  
 LAS VEGAS, NEVADA 89119  
 T. 702.380.0007 | F. 702.380.2964

1 1. THE VONS COMPANIES, INC., Defendant ..... \$223.00  
 2 **TOTAL REMITTED..... \$223.00**

3 DATED this 21<sup>st</sup> day of March, 2022.

4 **BRANDON | SMERBER LAW FIRM**

5 */s/ Lew Brandon, Jr., Esq.*

6 **LEW BRANDON, JR., ESQ.**

7 Nevada Bar No. 5880

8 **JUSTIN SMERBER, ESQ.**

9 Nevada Bar No. 10761

10 **SARA PASQUALE, ESQ.**

11 Nevada Bar No. 14412

12 **GREGORY ODEA, ESQ.**

13 Nevada Bar No. 9884

14 139 East Warm Springs Road

15 Las Vegas, Nevada 89119

16 *Attorneys for Defendant,*

17 *THE VONS COMPANIES, INC.*

18 ///

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28 ///

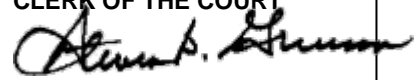
**CERTIFICATE OF SERVICE**

Pursuant to Nev. R. Civ. P. 5(b), I certify that on March 21, 2022, I served a true and correct copy of the foregoing **INITIAL APPEARANCE FEE DISCLOSURE** through the Court's ECF electronic filing system, upon the following:

STEVEN K. PARKE, ESQ.  
Nevada Bar No. 12627  
THE LAW FIRM OF PARKE  
ESQUIRE  
4455 S Jones Blvd., Suite 1  
Las Vegas, Nevada 89103  
(702) 469-3000  
Facsimile (702) 675-8990  
[Parkelaw@gmail.com](mailto:Parkelaw@gmail.com)  
*Attorney for Plaintiff*

MICHAEL T. HUA, ESQ.  
Nevada Bar No. 14547  
MICHAEL T. HUA LAW LLC  
5440 W. Sahara Ave., #106  
Las Vegas, NV 89146  
(702) 852-2228  
Facsimile: (702) 832-0266  
[efile@michaelhua.com](mailto:efile@michaelhua.com)  
*Associated Co-Counsel for Plaintiff*

/s/ Bonita Alexander  
An Employee of Brandon | Smerber Law Firm



ANS

**LEW BRANDON, JR., ESQ.**

Nevada Bar No. 5880

**JUSTIN SMERBER, ESQ.**

Nevada Bar No. 10761

**SARA PASQUALE, ESQ.**

Nevada Bar No. 14412

**GREGORY ODEA, ESQ.**

Nevada Bar No. 9884

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139 East Warm Springs Road

Las Vegas, Nevada 89119

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(702) 380-2964 – *facsimile*[l.brandon@bsnv.law](mailto:l.brandon@bsnv.law)[j.smerber@bsnv.law](mailto:j.smerber@bsnv.law)[s.pasquale@bsnv.law](mailto:s.pasquale@bsnv.law)[g.odea@bsnv.law](mailto:g.odea@bsnv.law)*Attorneys for Defendant,**THE VONS COMPANIES, INC.***DISTRICT COURT****CLARK COUNTY, NEVADA**SAMMANATHA NIEMEIER as Special  
Administrator of the Estate of JEFFREY  
CARTER,

Plaintiff,

vs.

THE VONS COMPANIES, INC., a corporation;  
and DOES and DOE EMPLOYEES I through X,  
inclusive; and ROE ENTITIES I through X,  
inclusive,

Defendants.

CASE NO.: A-22-848220-C  
DEPT. NO.: 4**DEFENDANT, THE VONS COMPANIES, INC.'S ANSWER TO  
PLAINTIFF'S COMPLAINT**COMES NOW, Defendant, THE VONS COMPANIES, INC., by and through its  
undersigned attorneys, LEW BRANDON, JR., ESQ., JUSTIN SMERBER, ESQ., SARA

PASQUALE, ESQ., and GREGORY ODEA, ESQ., of BRANDON | SMERBER LAW FIRM, and hereby answers the Plaintiff's Complaint on file herein as follows:

1. Answering Paragraphs 1, 2, 3, 4, 5, 6, 7, (sic 7), 8, 9, 10 and 11 of Plaintiff's Complaint on file herein, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the said allegations and therefore denies same.

2. Answering Paragraph 12 of Plaintiff's Complaint on file herein, Defendant denies the allegations contained therein.

**FIRST CAUSE OF ACTION**

**(NEGLIGENCE AS TO ALL DEFENDANTS)**

3. Answering Paragraph 13 of Plaintiff's Complaint on file herein, Defendant repeats and realleges each and every allegation in Paragraphs 1 through 12 as fully set forth herein.

4. Answering Paragraphs 14 and 15 of Plaintiff's Complaint on file herein, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the said allegations and therefore denies same.

5. Answering Paragraphs 16, 17, 18, 19, 20, 21, 22, 23 and 24 of Plaintiff's Complaint on file herein, Defendant denies each and every allegation contained therein.

**SECOND CAUSE OF ACTION**

**(NEGLIGENT HIRING / TRAINING / SUPERVISION / RETENTION AS TO ALL DEFENDANTS)**

6. Answering Paragraph 25 of Plaintiff's Complaint on file herein, Defendant repeats and realleges each and every allegation in Paragraphs 1 through 24 as fully set forth herein.

7. Answering Paragraph 26 of Plaintiff's Complaint on file herein, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the said allegations and therefore denies same.

1           8. Answering Paragraphs 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36 of Plaintiff's  
2 Complaint on file herein, Defendant denies the allegations contained therein.

3                               **AFFIRMATIVE DEFENSES**

4                               **FIRST AFFIRMATIVE DEFENSE**

5           Plaintiff's Complaint fails to state a claim against Defendant upon which relief can be  
6 granted.

7                               **SECOND AFFIRMATIVE DEFENSE**

8           Defendant alleges that at the time and place alleged in Plaintiff's Complaint, Plaintiff did  
9 not exercise ordinary care, caution or prudence for the protection of himself and any damages  
10 complained of by the Plaintiff in his Complaint, were directly or proximately caused or  
11 contributed to by the fault, failure to act, carelessness and negligence of Plaintiff.

12                               **THIRD AFFIRMATIVE DEFENSE**

13           Defendant alleges that the Plaintiff assumed whatever risk or hazard existed at the time of  
14 this incident, if any there were, and was therefore responsible for the alleged damage suffered and  
15 further that the Plaintiff was guilty of negligence of his own acts which caused or contributed to  
16 by the fault, failure to act, carelessness or negligence of Plaintiff.

17                               **FOURTH AFFIRMATIVE DEFENSE**

18           All the risks and dangers involved in the factual situation described in Plaintiff's  
19 Complaint, if any there were, were open, obvious and known to the Plaintiff and by reason thereof,  
20 Plaintiff assumed the risks and dangers inherent thereto.

21                               **FIFTH AFFIRMATIVE DEFENSE**

22           Defendant alleges that the negligence of the Plaintiff exceeded that of the Defendant, and  
23 that the Plaintiff is thereby barred from recovery.

**SIXTH AFFIRMATIVE DEFENSE**

Pursuant to NRCP 11, as amended: All possible affirmative defenses may not have been alleged herein insofar as sufficient facts were not available after reasonable inquiry upon the filing of Defendant's Answer, and therefore, Defendant reserves the right to amend this Answer to allege additional affirmative defenses if subsequent investigation warrants.

**SEVENTH AFFIRMATIVE DEFENSE**

The damages sustained by Plaintiff, if any, were caused by the acts of third persons who were not agents, servants or employees of this answering Defendant and who were not acting on behalf of this answering Defendant in any manner or form and as such, this Defendant is not liable in any matter to the Plaintiff.

**EIGHTH AFFIRMATIVE DEFENSE**

Defendant at all times relevant to the allegations contained in Plaintiff's Complaint, acted with due care and circumspection in the performance of any and all duties imposed on it.

**NINTH AFFIRMATIVE DEFENSE**

That it has been necessary of the Defendant to employ the services of an attorney to defend the action and a reasonable sum should be allowed Defendant for attorney's fees, together with costs of suit incurred herein.

**TENTH AFFIRMATIVE DEFENSE**

Plaintiff has failed to mitigate his alleged damages, and, to the extent of such failure to mitigate any damages awarded to Plaintiff, should be reduced accordingly.

**ELEVENTH AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred by applicable statutes of limitations.

**BRANDON | SMERBER**  
**LAW FIRM**  
139 E. WARM SPRINGS RD.  
LAS VEGAS, NEVADA 89119  
T. 702.380.0007 | F. 702.380.2964

**TWELFTH AFFIRMATIVE DEFENSE**

Defendant objects as to authentication, foundation and genuineness of all of Plaintiff's medical providers and documents listed or presented by Plaintiff.

WHEREFORE, Defendant, THE VONS COMPANIES, INC., prays as follows:

1. That Plaintiff take nothing by way of her Complaint on file herein;
2. For reasonable attorney's fees and costs of suit incurred herein; and
3. For such other and further relief as the Court may deem just and proper in the premises.

DATED this 21<sup>st</sup> day of March, 2022.

**BRANDON | SMERBER LAW FIRM**

/s/ Lew Brandon, Jr., Esq.

**LEW BRANDON, JR., ESQ.**

Nevada Bar No. 5880

**JUSTIN SMERBER, ESQ.**

Nevada Bar No. 10761

**SARA PASQUALE, ESQ.**

Nevada Bar No. 14412

**GREGORY ODEA, ESQ.**

Nevada Bar No. 9884

139 East Warm Springs Road

Las Vegas, Nevada 89119

*Attorneys for Defendant,*

*THE VONS COMPANIES, INC.*

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BRANDON | SMERBER  
LAW FIRM  
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LAS VEGAS, NEVADA 89119  
T. 702.380.0007 | F. 702.380.2964

**CERTIFICATE OF SERVICE**

Pursuant to Nev. R. Civ. P. 5(b), I certify that on March 21, 2022, I served a true and correct copy of the foregoing **DEFENDANT, THE VONS COMPANIES, INC.'S ANSWER TO PLAINTIFF'S COMPLAINT** through the Court's ECF electronic filing system, upon the following:

STEVEN K. PARKE, ESQ.  
Nevada Bar No. 12627  
THE LAW FIRM OF PARKE  
ESQUIRE  
4455 S Jones Blvd., Suite 1  
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Facsimile (702) 675-8990  
[Parkelaw@gmail.com](mailto:Parkelaw@gmail.com)  
*Attorney for Plaintiff*

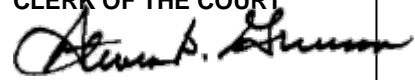
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Facsimile: (702) 832-0266  
[efile@michaelhua.com](mailto:efile@michaelhua.com)  
*Associated Co-Counsel for Plaintiff*

/s/ Bonita Alexander

An Employee of Brandon | Smerber Law Firm



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Steven D. Grierson  
CLERK OF THE COURT



1 **DSST**

2 **LEW BRANDON, JR., ESQ.**

3 Nevada Bar No. 5880

4 **JUSTIN SMERBER, ESQ.**

5 Nevada Bar No. 10761

6 **SARA PASQUALE, ESQ.**

7 Nevada Bar No. 14412

8 **GREGORY ODEA, ESQ.**

9 Nevada Bar No. 9884

10 **BRANDON | SMERBER LAW FIRM**

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12 Las Vegas, Nevada 89119

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16 [j.smerber@bsnv.law](mailto:j.smerber@bsnv.law)

17 [s.pasquale@bsnv.law](mailto:s.pasquale@bsnv.law)

18 [g.odea@bsnv.law](mailto:g.odea@bsnv.law)

19 *Attorneys for Defendant,*

20 *THE VONS COMPANIES, INC.*

21 **DISTRICT COURT**

22 **CLARK COUNTY, NEVADA**

23 SAMMANTHA NIEMEIER as Special  
24 Administrator of the Estate of JEFFREY  
25 CARTER,

26 Plaintiff,

27 vs.

28 THE VONS COMPANIES, INC., a corporation;  
and DOES and DOE EMPLOYEES I through X,  
inclusive; and ROE ENTITIES I through X,  
inclusive,

Defendants.

CASE NO.: A-22-848220-C  
DEPT. NO.: 4

**DISCLOSURE STATEMENT PURSUANT TO NRCP 7.1**

The undersigned counsel of record for Defendant, THE VONS COMPANIES, INC., hereby certifies that to their knowledge, THE VONS COMPANIES, INC. is a Michigan corporation, and is not publicly traded.

BRANDON | SMERBER  
LAW FIRM

DATED this 21<sup>st</sup> day of March, 2022.

/s/ Lew Brandon, Jr., Esq.

Nevada Bar No. 5880

Nevada Bar No. 10761

Nevada Bar No. 14412

Nevada Bar No. 9884

139 East Warm Springs Road

Las Vegas, Nevada 89119

*Attorneys for Defendant,*

*THE VONS COMPANIES, INC.*

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**CERTIFICATE OF SERVICE**

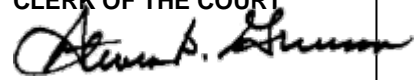
Pursuant to Nev. R. Civ. P. 5(b), I certify that on March 21, 2022, I served a true and correct copy of the foregoing **DISCLOSURE STATEMENT** through the Court's ECF electronic filing system, upon the following:

STEVEN K. PARKE, ESQ.  
Nevada Bar No. 12627  
THE LAW FIRM OF PARKE  
ESQUIRE  
4455 S Jones Blvd., Suite 1  
Las Vegas, Nevada 89103  
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Facsimile (702) 675-8990  
[Parkelaw@gmail.com](mailto:Parkelaw@gmail.com)  
*Attorney for Plaintiff*

MICHAEL T. HUA, ESQ.  
Nevada Bar No. 14547  
MICHAEL T. HUA LAW LLC  
5440 W. Sahara Ave., #106  
Las Vegas, NV 89146  
(702) 852-2228  
Facsimile: (702) 832-0266  
[efile@michaelhua.com](mailto:efile@michaelhua.com)  
*Associated Co-Counsel for Plaintiff*

/s/ Bonita Alexander  
An Employee of Brandon | Smerber Law Firm

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Steven D. Grierson  
CLERK OF THE COURT



1 **CSRE**  
2 **LEW BRANDON, JR., ESQ.**  
3 Nevada Bar No. 5880  
4 **JUSTIN SMERBER, ESQ.**  
5 Nevada Bar No. 10761  
6 **SARA PASQUALE, ESQ.**  
7 Nevada Bar No. 14412  
8 **GREGORY ODEA, ESQ.**  
9 Nevada Bar No. 9884  
10 **BRANDON | SMERBER LAW FIRM**  
11 139 East Warm Springs Road  
12 Las Vegas, Nevada 89119  
13 (702) 380-0007  
14 (702) 380-2964 – *facsimile*  
15 [l.brandon@bsnv.law](mailto:l.brandon@bsnv.law)  
16 [j.smerber@bsnv.law](mailto:j.smerber@bsnv.law)  
17 [s.pasquale@bsnv.law](mailto:s.pasquale@bsnv.law)  
18 [g.odea@bsnv.law](mailto:g.odea@bsnv.law)  
19 *Attorneys for Defendant,*  
20 *THE VONS COMPANIES, INC.*

21 **DISTRICT COURT**

22 **CLARK COUNTY, NEVADA**

23 SAMMANTHA NIEMEIER as Special  
24 Administrator of the Estate of JEFFREY  
25 CARTER,

26 Plaintiff,

27 vs.

28 THE VONS COMPANIES, INC., a corporation;  
and DOES and DOE EMPLOYEES I through X,  
inclusive; and ROE ENTITIES I through X,  
inclusive,

Defendants.

CASE NO.: A-22-848220-C  
DEPT. NO.: 4

**CONSENT TO SERVICE BY**  
**ELECTRONIC MEANS**  
**THROUGH E-FILING**  
**PROGRAM**

The undersigned parties hereby consent to service of documents by electronic means through the Court's e-filing program on behalf of the following parties: THE VONS COMPANIES, INC.

**BRANDON | SMERBER**  
**LAW FIRM**  
139 E. WARM SPRINGS RD.  
LAS VEGAS, NEVADA 89119  
T. 702.380.0007 | F. 702.380.2964

Documents served by electronic means must be transmitted to the following persons at the e-mail addresses listed: [l.brandon@bsnv.law](mailto:l.brandon@bsnv.law); [j.smerber@bsnv.law](mailto:j.smerber@bsnv.law), [s.pasquale@bsnv.law](mailto:s.pasquale@bsnv.law); and [g.odea@bsnv.law](mailto:g.odea@bsnv.law).

It is my understanding that the attachments may be transmitted to the program in any format and will be converted to a PDF file before service is effected.

The undersigned also acknowledges that this Consent does not require service by electronic means unless the serving party elects to do so.

DATED this 21<sup>st</sup> day of March, 2022.

**BRANDON | SMERBER LAW FIRM**

/s/ Lew Brandon, Jr., Esq.

**LEW BRANDON, JR., ESQ.**

Nevada Bar No. 12758

**JUSTIN SMERBER, ESQ.**

Nevada Bar No. 10761

**SARA PASQUALE, ESQ.**

Nevada Bar No. 14412

**GREGORY ODEA, ESQ.**

Nevada Bar No. 9884

139 East Warm Springs Road

Las Vegas, Nevada 89119

*Attorneys for Defendant,*

*THE VONS COMPANIES, INC.*

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BRANDON | SMERBER  
LAW FIRM  
139 E. WARM SPRINGS RD.  
LAS VEGAS, NEVADA 89119  
T. 702.380.0007 | F. 702.380.2964

**CERTIFICATE OF SERVICE**

Pursuant to Nev. R. Civ. P. 5(b), I certify that on March 21, 2022, I served a true and correct copy of the foregoing **CONSENT TO SERVICE BY ELECTRONIC MEANS THROUGH E-FILING PROGRAM** through the Court's ECF electronic filing system, upon the following:

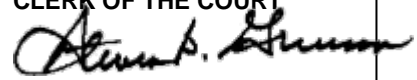
STEVEN K. PARKE, ESQ.  
Nevada Bar No. 12627  
THE LAW FIRM OF PARKE  
ESQUIRE  
4455 S Jones Blvd., Suite 1  
Las Vegas, Nevada 89103  
(702) 469-3000  
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[Parkelaw@gmail.com](mailto:Parkelaw@gmail.com)  
*Attorney for Plaintiff*

MICHAEL T. HUA, ESQ.  
Nevada Bar No. 14547  
MICHAEL T. HUA LAW LLC  
5440 W. Sahara Ave., #106  
Las Vegas, NV 89146  
(702) 852-2228  
Facsimile: (702) 832-0266  
[efile@michaelhua.com](mailto:efile@michaelhua.com)  
*Associated Co-Counsel for Plaintiff*

/s/ Bonita Alexander

An Employee of Brandon | Smerber Law Firm

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3/21/2022 2:09 PM  
Steven D. Grierson  
CLERK OF THE COURT



1 **REQT**

2 **LEW BRANDON, JR., ESQ.**

3 Nevada Bar No. 5880

4 **JUSTIN SMERBER, ESQ.**

5 Nevada Bar No. 10761

6 **SARA PASQUALE, ESQ.**

7 Nevada Bar No. 14412

8 **GREGORY ODEA, ESQ.**

9 Nevada Bar No. 9884

10 **BRANDON | SMERBER LAW FIRM**

11 139 East Warm Springs Road

12 Las Vegas, Nevada 89119

13 (702) 380-0007

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15 [l.brandon@bsnv.law](mailto:l.brandon@bsnv.law)

16 [j.smerber@bsnv.law](mailto:j.smerber@bsnv.law)

17 [s.pasquale@bsnv.law](mailto:s.pasquale@bsnv.law)

18 [g.odea@bsnv.law](mailto:g.odea@bsnv.law)

19 *Attorneys for Defendant,*

20 *THE VONS COMPANIES, INC.*

21 **DISTRICT COURT**

22 **CLARK COUNTY, NEVADA**

23 SAMMANTHA NIEMEIER as Special  
24 Administrator of the Estate of JEFFREY  
25 CARTER,

26 Plaintiff,

27 vs.

28 THE VONS COMPANIES, INC., a corporation;  
and DOES and DOE EMPLOYEES I through X,  
inclusive; and ROE ENTITIES I through X,  
inclusive,

Defendants.

CASE NO.: A-22-848220-C  
DEPT. NO.: 4

**NRCP 16.1(A)(1)(C) REQUEST FOR COMPUTATION OF DAMAGES AND  
DISCLOSURE OF SUPPORTING DOCUMENTS AND NRCP 16.1(a)(1)(A)(iii)  
REQUEST FOR MEDICAL PROVIDER IDENTITY**

Pursuant to NRCP 16.1(a)(1)(C), Defendant, THE VONS COMPANIES, INC. hereby  
requests that Plaintiff, SAMMANTHA NIEMEIER, as Special Administrator of the Estate of

**BRANDON | SMERBER**  
**LAW FIRM**  
139 E. WARM SPRINGS RD.  
LAS VEGAS, NEVADA 89119  
T. 702.380.0007 | F. 702.380.2964

JEFFREY CARTER, provide, within 30 days of this Request, a computation of any and all categories of damages claimed by the Plaintiff, including making available for inspection and copying as under Rule 34 the documents or other evidentiary matter, not privileged or protected from disclosure, on which such computation is based, including materials bearing on the nature and extent of injuries suffered.

DATED this 21<sup>st</sup> day of March, 2022.

**BRANDON | SMERBER LAW FIRM**

/s/ Lew Brandon, Jr., Esq.

**LEW BRANDON, JR., ESQ.**

Nevada Bar No. 5880

**JUSTIN SMERBER, ESQ.**

Nevada Bar No. 10761

**SARA PASQUALE, ESQ.**

Nevada Bar No. 14412

**GREGORY ODEA, ESQ.**

Nevada Bar No. 9884

139 East Warm Springs Road

Las Vegas, Nevada 89119

*Attorneys for Defendant,*

*THE VONS COMPANIES, INC.*

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BRANDON | SMERBER  
LAW FIRM  
139 E. WARM SPRINGS RD.  
LAS VEGAS, NEVADA 89119  
T. 702.380.0007 | F. 702.380.2964

**CERTIFICATE OF SERVICE**

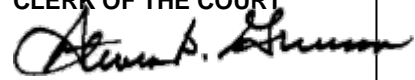
Pursuant to Nev. R. Civ. P. 5(b), I certify that on March 21, 2022, I served a true and correct copy of the foregoing **NRCP 16.1(A)(1)(C) REQUEST FOR COMPUTATION OF DAMAGES AND DISCLOSURE OF SUPPORTING DOCUMENTS AND NRCP 16.1(a)(1)(A)(iii) REQUEST FOR MEDICAL PROVIDER IDENTITY** through the Court's ECF electronic filing system, upon the following:

STEVEN K. PARKE, ESQ.  
Nevada Bar No. 12627  
THE LAW FIRM OF PARKE  
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4455 S Jones Blvd., Suite 1  
Las Vegas, Nevada 89103  
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[Parkelaw@gmail.com](mailto:Parkelaw@gmail.com)  
*Attorney for Plaintiff*

MICHAEL T. HUA, ESQ.  
Nevada Bar No. 14547  
MICHAEL T. HUA LAW LLC  
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Las Vegas, NV 89146  
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Facsimile: (702) 832-0266  
[efile@michaelhua.com](mailto:efile@michaelhua.com)  
*Associated Co-Counsel for Plaintiff*

/s/ Bonita Alexander

An Employee of Brandon | Smerber Law Firm



1 CSRE

2 LEW BRANDON, JR., ESQ.

3 Nevada Bar No. 5880

4 JUSTIN SMERBER, ESQ.

5 Nevada Bar No. 10761

6 SARA PASQUALE, ESQ.

7 Nevada Bar No. 14412

8 GREGORY ODEA, ESQ.

9 Nevada Bar No. 9884

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12 Las Vegas, Nevada 89119

13 (702) 380-0007

14 (702) 380-2964 – *facsimile*15 [l.brandon@bsnv.law](mailto:l.brandon@bsnv.law)16 [j.smerber@bsnv.law](mailto:j.smerber@bsnv.law)17 [s.pasquale@bsnv.law](mailto:s.pasquale@bsnv.law)18 [g.odea@bsnv.law](mailto:g.odea@bsnv.law)

19 Attorneys for Defendant,

20 THE VONS COMPANIES, INC.

## 21 DISTRICT COURT

## 22 CLARK COUNTY, NEVADA

23 SAMMANTHA NIEMEIER as Special  
24 Administrator of the Estate of JEFFREY  
25 CARTER,

26 Plaintiff,

27 vs.

28 THE VONS COMPANIES, INC., a corporation;  
and DOES and DOE EMPLOYEES I through X,  
inclusive; and ROE ENTITIES I through X,  
inclusive,

Defendants.

CASE NO.: A-22-848220-C  
DEPT. NO.: 4**CONSENT TO SERVICE BY  
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It is my understanding that the attachments may be transmitted to the program in any format and will be converted to a PDF file before service is effected.

The undersigned also acknowledges that this Consent does not require service by electronic means unless the serving party elects to do so.

DATED this 21<sup>st</sup> day of March, 2022.

**BRANDON | SMERBER LAW FIRM**

/s/ Lew Brandon, Jr., Esq.

**LEW BRANDON, JR., ESQ.**

Nevada Bar No. 12758

**JUSTIN SMERBER, ESQ.**

Nevada Bar No. 10761

**SARA PASQUALE, ESQ.**

Nevada Bar No. 14412

**GREGORY ODEA, ESQ.**

Nevada Bar No. 9884

139 East Warm Springs Road

Las Vegas, Nevada 89119

*Attorneys for Defendant,*

*THE VONS COMPANIES, INC.*

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**CERTIFICATE OF SERVICE**

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*Attorney for Plaintiff*

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[efile@michaelhua.com](mailto:efile@michaelhua.com)  
*Associated Co-Counsel for Plaintiff*

/s/ Bonita Alexander

An Employee of Brandon | Smerber Law Firm



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Counsel for Plaintiff

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Nevada Bar No. 14547

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efile@michaelhua.com

Associated Co-Counsel for Plaintiff

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

SAMMANATHA NIEMEIER as Special Administrator  
of the Estate of JEFFREY CARTER;

Plaintiff,

vs.

THE VONS COMPANIES, INC., a corporation; and  
DOES and DOE EMPLOYEES I through X,  
inclusive; and ROE ENTITIES I through X, inclusive,

Defendants.

CASE NO: A-22-848220-C

DEPT. NO: 4

**REQUEST FOR EXEMPTION  
FROM ARBITRATION**

Plaintiff requests that this matter is exempted from arbitration pursuant to Nevada Arbitration Rules 3 and 5, as this case involves a probable jury award in an amount in excess of \$50,000. A specific summary of the facts which supports this contention for exemption is as follows:

In 2016, Jeffrey Carter, was diagnosed with throat cancer. With immunotherapy treatments, my client was recovering from his illness. Immediately before the accident referenced above, my client was living a normal and otherwise healthy lifestyle.

On February 16, 2020, Mr. Carter, along with his sister-in-law, Robin McNaughton, went shopping at Vons, located at 7405 South Durango Drive in Las Vegas. Mr. Carter and Ms. McNaughton were walking in or about aisle 4/5, towards the bakery department to pick up a birthday cake for his wife, Victoria (Tori) Carter.

At about the same time, a Vons employee also in aisle 4/5, had one hand pushing a “long flatbed” trolley while using his other hand to pull a shopping cart behind him. The Vons employee lost control of the long flatbed trolley. The trolley rolled onto Mr. Carter’s left foot, pinning his left foot to the ground, and then pushing Mr. Carter forwards onto the ground.

The collision caused Mr. Carter to land on his right side and to slam his head against the floor. He suffered injuries to his right shoulder, head and a laceration above his right eye (requiring sutures). Vons did not offer or provide any type of first aid, aside from a clerk bringing paper towels and a customer bringing some ice. Mr. Carter then had to fill out an incident report before he could leave the store. At no time did Vons offer to call an ambulance or offer to have Mr. Carter come back later to fill out the incident report. Mr. Carter was then immediately driven to the ER at Spring Valley Hospital.

An MRI of Mr. Carter’s right shoulder revealed a SLAP tear glenoid labrum, and a tear of the distal supraspinatus tendon. As a result of the injuries sustained in this accident, Mr. Carter’s cancer recovery slowed. Eventually, with the pain and injuries to his right shoulder, limited mobility, mental stress and low morale, Mr. Carter’s health deteriorated quickly. Due to Mr. Carter’s cancer, he was unable to receive numerous modalities resulting in an exacerbated amount of pain and suffering. On or about April 24, 2020, Mr. Carter was placed into hospice care.

Additionally, Mr. Carter fractured his 5th, 6th, and 7th ribs.

On May 11, 2020, Mr. Carter passed away, less than four months after the Vons accident.

#### **ECONOMIC DAMAGES**

Spring Valley Hospital	\$ 2,404.00
------------------------	-------------

Shadow Emergency Physicians	\$ 4,214.00
Desert Radiology	\$ 9,681.00
Ming Wei Wu, D.O.	\$ 421.00
Pueblo Medical Imaging	\$ 1,800.00
Las Vegas Spine and Pain Center	\$ 1,262.00
Advanced Orthopedics and Sports	\$ 884.63
Dynamic Spine and Sport	\$ 692.00
<b>Total Bills to Date:</b>	<b>\$21,358.63</b>

The US and Nevada constitution govern that civil litigants the fundamental right to a fair and impartial jury trial. All civil cases that have a probable jury award value not in excess of \$50,000 per plaintiff may be exempt from the arbitration program. NAR 5.

A jury may award damages for past and future medical expenses—

The reasonable medical expenses plaintiff has necessarily incurred as a result of the accident [and the medical expenses which you believe the plaintiff is reasonably certain to incur in the future as a result of the accident].

NEV. J.I. 10.02. A jury may award damages for past and future pain and suffering—

The physical and mental pain, suffering, anguish and disability endured by the plaintiff from the date of the accident to the present [and the physical and mental pain, suffering, anguish and disability which you believe plaintiff is reasonably certain to experience in the future as a result of the accident].

NEV. J.I. 10.04. No definite standard for calculating pain and suffering exists—

No definite standard [or method of calculation] is prescribed by law by which to fix reasonable compensation for pain and suffering. Nor is the opinion of any witness required as to the amount of such reasonable compensation. [Furthermore, the argument of counsel as to the amount of damages is not evidence of reasonable compensation.] In making an award for pain and suffering, you shall exercise your authority with calm and reasonable judgment and the damages you fix shall be just and reasonable in the light of the evidence.

NEV. J.I. 10.05; BAJI 14.13.

Here, Plaintiff's combined economic and noneconomic damages will exceed \$50,000.

Therefore, Plaintiff respectfully requests this matter is exempted from the arbitration program.

1 I hereby certify pursuant to NRCP 11 this case to be within the exemption(s) marked above and  
2 am aware of the sanctions which may be imposed against any attorney or party who without good cause  
3 or justification attempts to remove a case from the arbitration program.

4 I further certify pursuant to NRS Chapter 239B and NRS 603A.040 that this document and any  
5 attachments do not contain personal information including, without limitation, home address/phone  
6 number, social security number, driver's license number or identification card number, account number,  
7 PIN numbers, credit card number or debit card number, in combination with any required security code,  
8 access code or password that would permit access to the person's financial account.  
9

10 DATED April 6, 2022

11 /s/ Michael T. Hua  
12

13 MICHAEL T. HUA, ESQ.  
14 Nevada Bar No.: 14547  
15 MICHAEL T. HUA LAW  
16 5440 W. Sahara Ave. #106  
17 Las Vegas, NV 89146  
18 Associated Co-Counsel for Plaintiff  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on April 6, 2022, I served a copy of the foregoing  
**REQUEST FOR EXEMPTION FROM ARBITRATION** by transmitting via U.S. Mail, first-class  
postage pre-paid to the office listed below.

LEW BRANDON, JR., ESQ.  
Nevada Bar No. 5880  
JUSTIN SMERBER, ESQ.  
Nevada Bar No. 10761  
SARA PASQUALE, ESQ.  
Nevada Bar No. 14412  
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Attorneys for Defendant

/s/ Sammantha Niemeier

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An Employee of MICHAEL T. HUA LAW LLC